

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RUDERSDAL, EOOD, et al.,

Plaintiffs,

-- against --

PHILIP ROBERT HARRIS, et al.,

Defendants.

Case No. 1:18-cv-11072-GHW-RWL

**DEFENDANT VTB BANK (PJSC)'s MEMORANDUM IN RESPONSE TO PLAINTIFFS'  
OBJECTIONS TO THE SECOND REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE ROBERT W. LEHRBURGER**

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VTB Bank (PJSC) (f/k/a The Bank for Foreign Trade of the Russian Federation) (“VTB”) submits this memorandum in response to Plaintiffs’ Objections (ECF No. 392) (“Objections to Second Report and Recommendation”) to the Report and Recommendation of Magistrate Judge Robert W. Lehrburger dated February 27, 2021 (ECF No. 389) (the “Second Report and Recommendation”).

## **ARGUMENT**

### **I. THE COURT SHOULD ADOPT MAGISTRATE JUDGE LEHRBURGER’S PERSONAL JURISDICTION RECOMMENDATION IN FULL**

VTB adopts the arguments set forth in Section I of the Fibank Defendants’ Opposition to Objections to Magistrate Judge Lehrburger’s February 27, 2021 Report and Recommendation (ECF No. 395) (the “Fibank Opposition”) at 5 – 9, which are hereby incorporated by reference. Accordingly, VTB adopts Fibank’s argument that Magistrate Judge Lehrburger correctly determined that Plaintiffs have not substantiated the existence of conspiracy jurisdiction under Federal Rule of Civil Procedure 4(k)(2). *See id.*<sup>1</sup>

## **CONCLUSION**

For the forgoing reasons, and the reasons stated in the Fibank Opposition, the Court should adopt the findings and recommendations in Section B of the Second Report and Recommendation.

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<sup>1</sup> On September 4, 2020, VTB filed a letter-motion requesting a conference with the Court in anticipation of filing a motion to dismiss Plaintiffs’ Second Amended Complaint (ECF No. 334.) On September 15, 2020, Magistrate-Judge Lehrburger issued an order denying VTB’s request “without prejudice to renewal after Judge Woods rules on Plaintiffs’ objections to the Report and Recommendation on the other defendants’ motions to dismiss.” (ECF No. 337.) VTB respectfully reserves its right to renew its request for a pre-motion conference after the Court rules on Plaintiffs’ objections to the Report and Recommendation. Defendants have not yet determined whether to move for dismissal on *forum non conveniens* grounds.

April 5, 2021

Respectfully submitted,

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